

LATHAM & WATKINS LLP
John P. Flynn (Bar No. 141094)
Tracey L. Orick (Bar No. 240904)
505 Montgomery Street, Suite 2000
San Francisco, California 94111-2562
Telephone: (415) 391-0600
Facsimile: (415) 395-8095
John.Flynn@lw.com
Tracey.Orick@lw.com

Attorneys for Defendant
RAE SYSTEMS INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

POLIMASTER LTD., NA&SE TRADING
CO., LIMITED,

Plaintiffs,

v.

RAE SYSTEMS INC.

Defendant.

CASE NO. C 05-01887- JF HRL

~~PROPOSED~~ JUDGMENT

On May 9, 2005, Plaintiffs Polimaster Ltd. and NA&SE Trading Co., Limited (“Polimaster”) filed a complaint in this Court against Defendant RAE Systems Inc. (“RAE”), seeking declaratory and injunctive relief based upon alleged breach of contract, misappropriation of trade secrets under Cal. Civ. Code § 3426 *et seq.*, unfair competition under Cal. Bus. & Prof. Code § 17200, and the Federal Arbitration Act, 9 U.S.C. § 2. This Court denied the requested relief by Order dated September 6, 2005.

Pursuant to arbitration provisions in the parties’ contracts, the parties arbitrated Polimaster’s claims of trade secret misappropriation under Cal. Civ. Code § 3426 *et seq.*, breach of contract, and unfair competition under Cal. Bus. & Prof. Code § 17200 *et seq.*, as well as RAE’s counterclaim for breach of contract. The Arbitrator issued an interim award on July 5, 2007, and a final Arbitration Award on September 20, 2007, wherein it was held that Polimaster

failed to prove its claims, RAE proved its counterclaim, RAE was deemed the prevailing party, and RAE was awarded damages of \$2,412,432 and costs of \$46,213.15.

RAE filed a Notice of Motion and Motion to Confirm Binding Arbitration Award and for Entry of Judgment on Binding Arbitration Award on October 5, 2007. Polimaster filed a Memorandum in Opposition to RAE Systems' Motion to Confirm and Notice of Motion to Vacate on October 17, 2007. This Court held a hearing on December 7, 2007 and issued its Order Confirming the Arbitration Award on February 25, 2008.

Therefore, IT IS ADJUDGED that:

1. Defendant RAE Systems Inc. is the prevailing party and has judgment against Plaintiffs in this matter;

2. Defendant RAE Systems Inc. shall recover from Plaintiffs Polimaster Ltd. and Na&Se Trading Co., Limited pursuant to the Arbitration Award confirmed by this Court on February 25, 2008: damages of \$2,412,432 and costs of \$46,213.15;

3. Pursuant to Cal. Civ. Code § 3287(a), RAE Systems recovers post-arbitration award, prejudgment interest at the statutory rate of 10 percent per annum in the amount of [\$330,738.29].

4. Pursuant to 28 U.S.C. § 1961, this judgment bears interest at the judgment rate of 0.43 percent per annum from the date it is entered until paid;

5. Plaintiffs Polimaster Ltd. and NA&SE Trading Co., Limited take nothing from RAE Systems Inc.

6. Any other relief that this Court deems just and proper.

Dated: 1/23/09


The Honorable Jeremy Fogel
United States District Court Judge